

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

KATHLEEN MILLER,

Plaintiff

v.

VERIZON COMMUNICATIONS, INC.,

Defendant

Civil Action No.:

05 - 30117 - KPN

**FILING FEE PAID:**

RECEIPT # 305942

AMOUNT \$ 250.00

BY DPTY CLK MLT

DATE 5/23/05

**COMPLAINT AND JURY DEMAND**

**Parties**

1. The Plaintiff, Kathleen Miller, is a natural person currently residing at 17 Lorita Lane, Northfield, Franklin County, Massachusetts.
2. The Defendant, Verizon Communications, Inc., is a corporation with a place of business at 295 Worthington Street, Springfield, Hampden County, Massachusetts.

**Jurisdiction**

3. This Court has jurisdiction over the Plaintiff's claims pursuant to 28 U.S.C. §§ 1331 and 1332 and otherwise. The amount in controversy is in excess of \$75,000.00. There are federal law claims set forth herein.

**Facts**

4. The Plaintiff, Kathleen Miller, began her employment with the Defendant on or about June of 1998 as a full-time employee under the job title of customer service representative.

5. Over the course of her employment, the Plaintiff has always performed her job responsibilities well and received increases in wages.
6. The Plaintiff was diagnosed with diabetes in or about February of 2000 and she informed the Defendant of her diagnosis.
7. In or about February of 2000, the Plaintiff requested a FMLA leave to receive medical treatment for her diabetes.
8. Upon the Plaintiff's return from FMLA leave, the Plaintiff requested a modified work schedule as a reasonable accommodation with regard to her symptoms, treatment for referenced medical condition and some time off from work for further medical treatment.
9. The Plaintiff was wrongly and illegally denied her requests for reasonable accommodation as a qualified handicapped person, in violation of state and federal law.
10. The Plaintiff believes that she could have performed the essential functions of her job with some reasonable accommodation for her handicap.
11. The Plaintiff also attempted to use her personal and vacation days and her request was denied.
12. The Defendant's handbooks appear to provide for time off for personal and/or medical reasons.
13. The management of the Defendant made statements that led the Plaintiff to believe that her requests for leave for her handicap and disability upset them.
14. The Plaintiff believes that she was retaliated against based on her handicap and disability and for taking leave for her handicap and disability.
15. Instead of receiving reasonable accommodations, the Plaintiff's employment was terminated.

16. The Plaintiff believes that the Defendant's conduct is in violation of Massachusetts General Laws Chapter 151B, the Americans with Disabilities Act and the Rehabilitation Act of 1973. The Plaintiff has satisfied the prerequisites to filing suit.

**Count I**  
**(M.G.L. c. 151B – Handicap Discrimination)**

17. The Plaintiff incorporates herein the previous allegations set forth in this Complaint.
18. The Plaintiff's employment with the Defendant was terminated, and her employment with the Defendant was otherwise adversely affected, based upon the Plaintiff's handicap and disability.
19. The Plaintiff was a qualified handicapped person under the law and was denied reasonable accommodation in violation of M.G.L.c. 151B.
20. The Plaintiff was retaliated against based on her disability and handicap.

WHEREFORE, the Plaintiff, Kathleen Miller, respectfully requests a judgment against the Defendant and for all damages available pursuant to M.G.L. c. 151B.

**Count II**  
**(M.G.L. c. 151B – Handicap Retaliation)**

21. The plaintiff incorporates herein the previous allegations set forth in this Complaint.
22. The Plaintiff's employment with the Defendant was terminated, and her employment with the Defendant was otherwise adversely affected, based upon the Plaintiff's handicap and disability.
23. The Plaintiff suffered a pervasive and hostile work environment based upon her handicap and disability.
24. The Plaintiff was retaliated against based on her leave and requests for accommodation related to her disability and handicap.

WHEREFORE, the Plaintiff, Kathleen Miller, respectfully requests a judgment against the Defendant and for all damages available pursuant to M.G.L. c. 151B.

**Count III**  
**(Americans With Disabilities Act– 42 U.S.C. § 12101, et. seq.–Discrimination)**

25. The Plaintiff incorporates herein the previous allegations set forth in this Complaint.
26. The Plaintiff was treated adversely and terminated because of her disability and handicap and for requesting a reasonable accommodation.
27. The Defendant failed to follow the requirements of the Americans With Disabilities Act.
28. The Plaintiff requested to take leave for her medical condition and/or handicap and the Defendant took adverse action against the Plaintiff for taking such leave.
29. The Plaintiff requested a reasonable accommodation for her handicap and medical condition and was denied that reasonable accommodation.
30. The Plaintiff's employment with the Defendant was terminated, and her employment with the Defendant was otherwise adversely affected based upon the Plaintiff's handicap and medical condition.
31. The Plaintiff is a qualified handicapped person.
32. The Plaintiff was severely and adversely affected by the Defendant's conduct and the failure of the Defendant to take reasonable steps to ensure that this discriminatory conduct would not occur and/or continue.

WHEREFORE, the Plaintiff, Kathleen Miller, respectfully requests a judgment against the Defendant and for all damages available pursuant to the Americans With Disabilities Act and otherwise.

**Count IV**  
**(Americans With Disabilities Act— 42 U.S.C. § 12101, et. seq.— Retaliation)**

33. The Plaintiff incorporates herein the previous allegations set forth in this Complaint.
34. The Plaintiff was treated adversely because of her disability and handicap.
35. The Defendant failed to follow the requirements of the Americans With Disabilities Act.
36. The Plaintiff requested to take leave for her medical condition and/or handicap and the Defendant took adverse action against the Plaintiff for taking such leave.
37. The Plaintiff requested a reasonable accommodation for her handicap and medical condition and was denied that reasonable accommodation.
38. The Plaintiff's employment with the Defendant was terminated, and her employment with the Defendant was otherwise adversely affected based upon the Plaintiff's handicap and/or medical condition.
39. The Plaintiff is a qualified handicapped person.
40. The Plaintiff was severely and adversely affected by the Defendant's conduct and the failure of the Defendant to take reasonable steps to ensure that this discriminatory conduct would not occur and/or continue.

WHEREFORE, the Plaintiff, Kathleen Miller, respectfully requests a judgment against the Defendant and for all damages available pursuant to the Americans With Disabilities Act and otherwise.

**Count V**  
**(Rehabilitation Act of 1973– 29 U.S.C. § 701 et.seq.—Handicap Discrimination and Retaliation)**

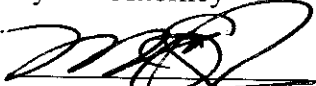
41. The Plaintiff incorporates herein the previous allegations set forth in this Complaint.
42. The Plaintiff was treated adversely because of her disability and handicap.
43. The Plaintiff requested to take leave for her medical condition and/or handicap and the Defendant took adverse action against the Plaintiff for taking such leave.
44. The Plaintiff requested a reasonable accommodation for her handicap and medical condition and was denied that reasonable accommodation.
45. The Plaintiff's employment with the Defendant was terminated, and her employment with the Defendant was otherwise adversely affected based upon the Plaintiff's handicap and/or medical condition.
46. The Plaintiff is a qualified handicapped person.
47. The Plaintiff was severely and adversely affected by the Defendant's conduct and the failure of the Defendant to take reasonable steps to ensure that this discriminatory conduct would not occur and/or continue.

WHEREFORE, the Plaintiff, Kathleen Miller, respectfully requests a judgment against the Defendant and for all damages available pursuant to the Rehabilitation Act of 1973 and otherwise.

**KATHLEEN MILLER CLAIMS A JURY TRIAL WITH RESPECT TO ALL CLAIMS SO TRIABLE, PURSUANT TO FED. R. CIV. P. RULE 38 AND OTHERWISE.**

Respectfully submitted,

The Plaintiff  
KATHLEEN MILLER  
By Her Attorney

A handwritten signature in black ink, appearing to read 'M. Shea', is written over a horizontal line.

MICHAEL O. SHEA, ESQUIRE

BBO # 555474

Law Office Of Michael O. Shea, P.C.

451 Main Street

Wilbraham, MA 01095

Telephone: (413) 596-8005

Facsimile: (413) 596-8095

Date: May 19, 2005

JS 44 (Rev. 3/99)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Kathleen Miller

(b) County of Residence of First Listed Plaintiff Franklin  
(EXCEPT IN U.S. PLAINTIFF CASES)

05 - 30117 - KPN

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Michael O. Shea, Esq. (413) 596-8005  
Law Office of Michael O. Shea  
451 Main Street, Wilbraham MA 01095

## DEFENDANTS

Verizon Communications

County of Residence of First Listed Hampden  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 DEF Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4 DEF  
Citizen of Another State ☐ 2 ☐ 2 DEF Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5 DEF  
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 DEF Foreign Nation ☐ 6 ☐ 6 DEF

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405 (g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rate, etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organization <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

ADA (42 U.S.C. § 12101) Rehabilitation Act of 1973 (29 U.S.C. § 701-97)

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) (See instructions):

IF ANY N/A

DATE

5/19/05

JUDGE

E



DOCKET NUMBER

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Kathleen Miller v. Verizon Communications
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- 05 - 30117 - KPN
- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
- YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
- YES ☐ NO ☒
- If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
- YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
- YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
- YES ☒ NO ☐
- A. If yes, in which division do all of the non-governmental parties reside?
- Eastern Division ☐ Central Division ☐ Western Division ☒
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
- Eastern Division ☐ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
- YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Michael O. SheaADDRESS 451 Main Street, Wilbraham, MA 01095TELEPHONE NO. (413) 596-8005